763 954 4447

Application for United States

PATENT H0005466-9952(1161.1132101)

## **DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

## COLD WATER BYPASS AND FIRING RATE CONTROL

The spec	ification of which					
(check one)	X is attached her			_ as		
	Application Serial N	lo		_		
	and was amended or	·		•		
		(if applica	able)			
	I hereby state that I have the claims, as amended		stand the contents of the a eferred to above.	above-identif	ied speci	fication,
	I acknowledge the duty ance with Title 37, Code		on which is material to the ons, §1.56(a).*	e examinatio	n of this a	application
	I hereby claim the benef on(s) as listed below:	it under Title 35, Uni	ted States Code, §119(e)	of any Unite	d States p	provisional
Provision	al Application No.		filed on	<del></del>		
applicatio applicatio	on(s) for patent or invent	or's certificate listed	Title 35, United States C below and have also iden filing date before that of	tified below	any forei	gn
Prior Foreign Application(s)			Prio	PriorityClaimed		
(Num	ber) (Co	ountry)	(Day/Month/Year Fi	iled)	Yes	No
isted belo prior Unio §112, I ac Regulatio	ow and, insofar as the su ted States application in knowledge the duty to o	bject matter of each of the manner provided lisclose material infor red between the filing	ted States Code §120 of a of the claims of this appli by the first paragraph of mation as defined in Titl g date of the prior applica	cation is not Title 35, Uni e 37, Code o	disclosed ited States f Federal	in the Scode
(Applicat	tion Serial No.)	(Filing Date)	Status (	patented, per	nding, ab	andoned)
			or agent(s) to prosecute			

Address all correspondence to Gregory M. Ansems at Customer Number 000128.

SHUDY, JR. (Reg. No. 31,214), JAMES RODGERS (Reg. No. 48,306), MARK SCHROEDER (Reg. No. 53,566), J. SCOT WICKEM (Reg. No. 41,376), GLENN SEAGER (Reg. No. 36,926), DAVID CROMPTON (Reg. No. 36,772), KRIS T. FREDRICK (Reg. No. 42,554), MATTHEW LUXTON (Reg. No. 41,960) and GREG ANSEMS (Reg. No. 42,264). Address all telephone calls to GREGORY M. ANSEMS at telephone number (763) 954 -5387.

3-25-04; 4:49PM;MN102471 XMFD

Declaration and Power of Attorney
COLD WATER BYPASS AND FIRING RATE CONTROL
H0005466-9952 (1161.1132101)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole or First Inventor	Michael A. Pouchak			
Inventor's Signature	Michael a - Pouchak	Date:	March	<i>35</i> , 2004
Residence	Saint Anthony, Hennepin County	<del>.</del>		
Citizenship	US	•		
Post Office Address	2808 Murray Avenue			
	Saint Anthony, Minnesota 55418			
Full Name of Second				
Ioint Inventor, If Any	Jeffrey M. Hammer			
Inventor's Signature		Date:		, 2004
Residence	Maple Plain, Hennepin County			,
Citizenship	US			
Post Office Address	6150 Pagenkipf			
	Manle Plain Minnesota 55359			

Declaration and Power of Attorney COLD WATER BYPASS AND FIRING RATE CONTROL H0005466-9952 (1161.1132101)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole or First Inventor	Michael A. Pouchak		
Inventor's Signature		Date:	, 2004
Residence	Saint Anthony, Hennepin County	,	
Citizenship	us		
Post Office Address	2808 Murray Avenue		
	Saint Anthony, Minnesota 55418		
Full Name of Second Joint Inventor, If Any Inventor's Signature Residence	Jeffrey M. Hammer  Half Maple Plain, Hennepin County	un Date: 3/d	
Citizenship	US		
Post Office Address	6150 Pagenkipf	· · · · · · · · · · · · · · · · · · ·	
	Maple Plain, Minnesota 55359		

Declaration and Power of Attorney COLD WATER BYPASS AND FIRING RATE CONTROL H0005466-9952 (1161.1132101)

\*Title 37, Code of Federal Regulations §1.56:

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:
  - (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
- (i) Opposing an argument of unpatentability relied on by the Office, or
- (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
  - (1) Each inventor named in the application;
  - (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.